

**REMARKS/ARGUMENTS**

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Claims 1-19, 21, 22 and 36 are now pending.

Claims 1-3, 7, 9, 12-13, 15-17, 22 and 36 were rejected under 35 USC 102(e) as being clearly anticipated by Mesallum. The remaining claims were rejected as obvious from Mesallum when taken in combination with one or more secondary references. Applicant respectfully traverses these rejections.

While it is respectfully submitted that Mesallum does not anticipate nor render obvious the invention claimed, Mesallum does not in any event constitute statutory prior art with respect to this invention because this invention was conceived before Mesallum's earliest claimed effective filing date of November 23, 1999. Furthermore, applicant's invention was diligently pursued to constructive reduction to practice from a date before Mesallum's earliest effective filing date to the filing date of applicant's original provisional application. The earlier conception and diligence to constructive reduction to practice are evidenced by the attached Rule 131 Declaration and Exhibits attached thereto. In view of the attached Declaration, reconsideration and withdrawal of the Examiner's rejections of record are respectfully requested.

Attached is a Form PTO/SB/08a listing documents for consideration by the Examiner. Copies of the non-U.S. documents are attached.

The Rule 17(p) Official Fee required by Rule 97(c) in lieu of certification is filed herewith. Should that fee be missing or inadequate, please charge the deficiency to our Deposit Account No. 14-1140 under Order No. 2784-25.

This Information Disclosure Statement is intended to be in full compliance with the rules, but should the Examiner find any part of its required content to have been

omitted, prompt notice to that effect is earnestly solicited, along with additional time under Rule 97(f), to enable Applicant to comply fully.


Consideration of the foregoing and enclosures plus the return of a copy of the herewith Form PTO-1449 with the Examiner's initials in the left column per MPEP 609 along with an early action on the merits of this application are earnestly solicited.

Claim 1 has been amended above to recite more specifically that the distal end of the elongated flexible conduit provided in accordance with the invention is anchored with respect to the target wall segment after an incision is formed in the target wall segment and after the flexible conduit is advanced through the wall. The listed Wilk patent does not anticipate nor render obvious the invention of claim 1 because Wilk secures a tubular member the wall with a fluid-tight connection (in a manner not fully disclosed) before any incision is formed. It is further respectfully noted that Wilk does not in any way teach or suggest limitations of numerous of applicant's other claims including the concept of providing anchoring balloons.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:   
Michelle N. Lester  
Reg. No. 32,331

MNL:slj  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100